

Appl. No. 09/880,388  
Amdt. Dated June 8, 2004  
Reply to Office Action of March 9, 2004

• • R E M A R K S / A R G U M E N T S • •

The present Preliminary Amendment is being filed together with a Request for Continued Examination (RCE) of the present application.

By the present Preliminary Amendment independent claim 1 has been changed to recite that the plurality of fine fusion spots are located on an exterior surface of the wings and that the plurality of fine fusion spots are arranged so that there is a greater number of the fine fusion spots per unit area throughout outer side regions of the wings that extend inward from inner transverse edges of the male mechanical fastener strips over a transverse distance that is at least equal to widths of the male mechanical fastener strips than in inner regions of the wings that extend inward from the outer side regions.

Support for these changes to the claims can be readily found in applicants' figures.

Entry of the Preliminary Amendment prior to continued examination of the application is requested.

In the Office Action mailed March 9, 2004 the Examiner rejected claims 1-6 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,957,908 to Kline et al.

With regard to the previous amendments to independent claim 1 the Examiner stated that:

Kline et al. discloses wings having fine fusion spots thereon, as shown in figure 7. The regions of the wings 64 extending inward from the inner transverse edge of the fastener strip 30 in a distance that is equal to the width of the fastener strip 30 still has, on average, a greater number of fusion spots per unit area than the remainder of the wing 64.

Appl. No. 09/880,388  
Amdt. Dated June 8, 2004  
Reply to Office Action of March 9, 2004

In order to distinguish over the Examiner's position that Kline et al teach a structure in which regions of the wings 64 extending inward from the inner transverse edge of the fastener strip 30 in a distance that is equal to the width of the fastener strip 30 have, on average, a greater number of fusion spots per unit area than the remainder of the wing 64, applicants have amended independent claim 1 to require that there is a greater number of the fine fusion spots per unit area throughout outer side regions of the wings that extend inward from inner transverse edges of the male mechanical fastener strips over a transverse distance that is at least equal to widths of the male mechanical fastener strips than in inner regions of the wings that extend inward from the outer side regions.

Attached as Exhibit A is a copy of Figure 7 of Kline et al. with a line extending the boundary of the high bond zone 253. In phantom, applicants have identified an area that is equal to the width of closure member 30 which lies inward from the closure member 30. The Examiner will note that there is an area "A" in Exhibit A in which "per unit area" there are an equal number of fusion spots as there are in the remaining portion of wing 64.

Accordingly, Kline et al. does not teach that there is a greater number of the fine fusion spots per unit area throughout outer side regions of the wings that extend inward from inner transverse edges of the male mechanical fastener strips over a transverse distance that is at least equal to widths of the male mechanical fastener strips than in inner regions of the wings that extend inward from the outer side regions.

On page 4 of the Office Action of March 9, 2004 the Examiner stated that:

Appl. No. 09/880,388  
Amdt. Dated June 8, 2004  
Reply to Office Action of March 9, 2004

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the fine fusions spots being located on an exterior surface of the wings) are not recited in the rejected claim(s).

In view of this statement made by the Examiner, independent claim 1 has been changed to specifically recite that the plurality of fine fusion spots are located on an exterior surface of the wings.

Applicants previously argued that having the fine fusion spots on the inner exposed surfaces of the wings provides a structured landing, engagement area for the mechanical fasteners in applicants' invention, when the fastener sections 21 are folded over as shown in Fig. 1.

Kline et al. does not teach that the closure members 30 are folded over to engage an adjacent surface area of the ear panels 64.

Accordingly, in response to the Examiner's previous request, applicants have established that the having the fine fusion spots on the inner exposed surface of the wings does provide a unique and functional structure that Kline et al. completely fails to teach or otherwise appreciate.

Therefore, this difference which was previously noted by the Examiner, although not expressly recited in the claims (as noted by the Examiner) further distinguishes applicants' invention over Kline et al.

Based upon the above distinctions between Kline et al. the present invention, and the overall teachings of Kline et al., properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon Kline et al. as required under 35 U.S.C. §103 as anticipating applicants'

Appl. No. 09/880,388  
Amdt. Dated June 8, 2004  
Reply to Office Action of March 9, 2004

claimed invention. It is, therefore, submitted that any reliance Kline et al. would be improper inasmuch as Kline et al. does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of Kline et al. and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,

  
Michael S. Gzybowski  
Reg. No. 32,816

BUTZEL LONG  
350 South Main Street  
Suite 300  
Ann Arbor, Michigan 48104  
(734) 995-3110

112862.1

U.S. Patent

Sep. 28, 1999

Sheet 6 of 8

5,957,908

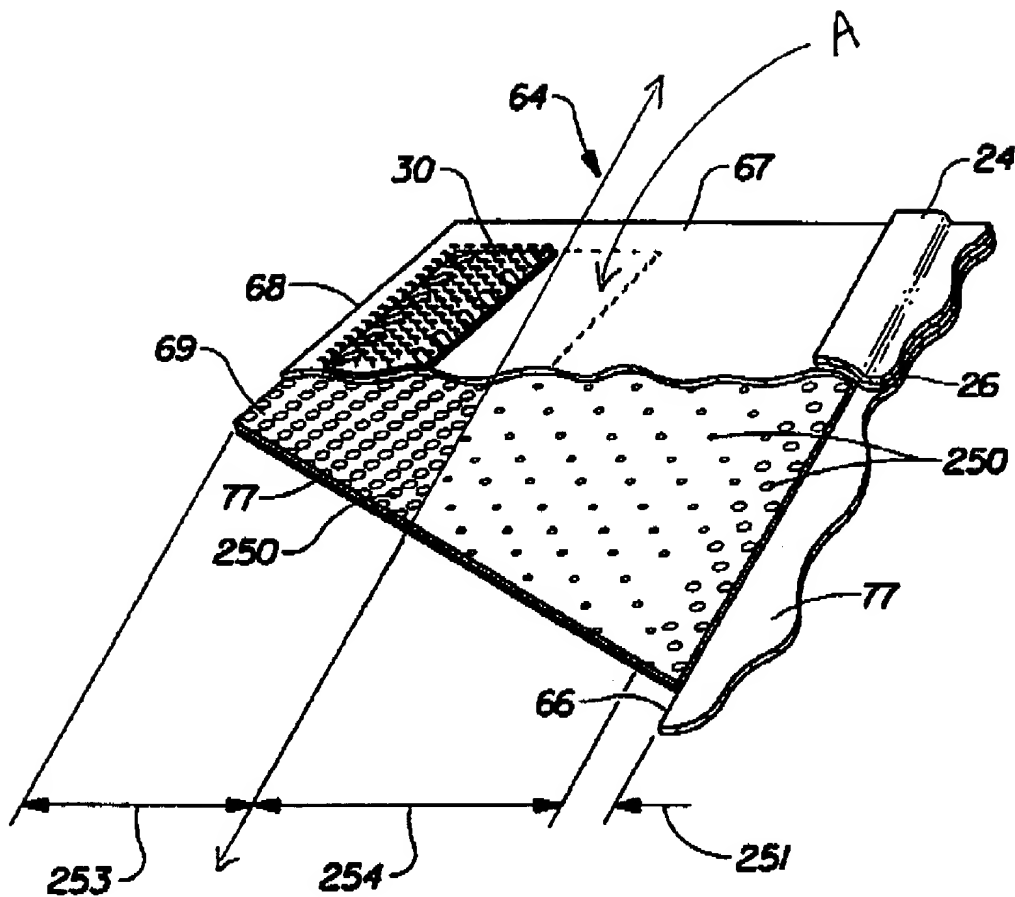


Fig. 7

